



# Department of Planning, Housing, & Community Development

Mayor, Richard C. David  
Director, Jennie Skeadas-Sherry AICP

## ***STAFF REPORT***

TO: Planning Commission Members  
FROM: Planning Housing and Community Development  
DATE: July 31, 2014  
SUBJECT: 198 Robinson Street and 98 Moeller Street; Special Use Permit and Series A Site Plan Review  
TAX ID #: 145.77-3-16 and 145.77-3-17  
CASE: 2014-22

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### **A. REVIEW REQUESTED**

This request would provide for the construction of a new 2,340 square foot gasoline/convenience market with 2 pump islands. The proposed development would be located at 198 Robinson Street which is in the C-4 Neighborhood Commercial District and 38 Moeller which is zoned R-2 One and Two Family Residential. 198 Robinson Street is currently improved with a 1,331 square foot gasoline/convenience market with 2 pump islands. The existing site improvements will be razed to accommodate the new development. 38 Moeller was previously improved with a single-family dwelling that was demolished following a fire.

As proposed, the gasoline/convenience market would operate 7 days a week between the hours of 5:00am - 12:00am. The applicant approximates that 1,400 customers would visit the site daily, an increase from 900 customers at the existing market. Deliveries would occur daily, between the hours of 7:00am and 5:00pm. Six employees are proposed.

A Special Use Permit and Series A Site Plan Approval is required for the proposed project.

### **B. ADDITIONAL REVIEWS**

A Use Variance to allow the gasoline/convenience market in the R-2 Zone and the following Area Variances were approved by the Zoning Board of Appeals at their July meeting:

	Proposed	Required
Lot coverage (C-4)	93%	70%
Lot coverage (R-2)	74%	50%
Parking	14	9
Curb Opening Width	41 feet*	30 feet
Perimeter Landscaping	0 feet along 38 Moeller	5 feet
Street Trees	2	Up to 8

The Engineering Department has reviewed and provided comments on the Preliminary Urban Runoff Reduction Plan (URRP). Final URRP approval by the Engineering Department will be required prior to the issuance of a building permit.

The Traffic Board reviewed and approved the proposed curb openings.

The Shade Tree Commission reviewed this project at their July meeting. Their recommendation is as follows:

- For tree species selection the Commission asks the applicant to refer to the list of recommended large and small trees on the Shade Tree Commission page of the City website (see Trees Mean Business)
- The Commission recommends that a small tree from list be planted on Robinson Street due to the location of overhead utilities lines. All other proposed trees on the site plan shall be any large tree on list.

### **C. SITE PLAN COMMENTS**

The existing gasoline station / convenience market, which is proposed to be demolished, does not meet many of the development standards set forth in the Zoning Code, including lot coverage, buffering, or landscaping requirements. Redevelopment of the site with the same use would not dramatically alter the character of the neighborhood, while the proposed upgrades to the overall site, including buffering, perimeter landscaping, orderly striped parking, and reduced curb cuts will significantly improve the functionality and aesthetics of the site. Staff has the following comments on the proposed project and site plan:

On May 15, 2014 staff provided a letter to the applicant outlining items missing from the plans and a number of zoning requirements that the project was not in compliance with. Since that time the proposed plans have been revised to reduce the size of the proposed building by 200 square feet. The revised plans also include a perimeter landscape buffer around the majority of the site, the inclusion of a trash enclosure, reorientation of the pump island and parking, inclusion of trees, and alterations to the curb opening on Moeller.

On July 21<sup>st</sup> staff received a letter from an adjacent neighbor which expressed concerns regarding potential privacy and noise impacts to their property and other adjacent residential uses. To mitigate this potential impact a privacy fence along the south and east property lines could be installed subject to the provisions of Zoning Code Section 410-14. On July 21<sup>st</sup> staff sent an email to the applicant asking if they were willing to provide a fence. As of this writing the applicant has not responded. To reduce conflicts between the proposed commercial operation and the adjacent residential uses, staff recommends the installation of a fence as a condition of approval.

The site plan illustrates that the dumpster would be located over the proposed drywell. The Final Urban Runoff Reduction Plan and revised site plan shall correct this technical error.

As proposed, the building would be finished in 'hardiboard' type siding on the Robinson and Moeller Street elevations and horizontal vinyl siding on the rear and east side elevations. To create a cohesive architectural design the siding should be consistent on all sides of the building. Since vinyl siding would be atypical for commercial development, staff would recommend the use of the proposed 'hardiboard' on each elevation of the building.

The plans illustrate a retaining wall along the south property line and along portions of Moeller Street. Staff recommends that exposed, visible portions of the wall have an architectural finish, such as split faced block or poured in place, color integrated concrete.

## **D. SITE REVIEW**

The subject property is located on the south side of Robinson Street at the south east corner of Moeller Street. 198 Robinson Street is improved with a gasoline/convenience market. 38 Moeller Street is improved with a single-family dwelling which has recently been demolished. It is adjoined by residential structures to the south and east and commercial buildings to the north and west.

## **E. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY**

206 Robinson Street – On August 29, 2014 a Determination of No Historical Significance from the Commission on Architecture and Urban Design (CAUD) was issued to allow the demolition of a residential building located on the site.

278 Robinson Street – On March 19, 2008 the Planning Commission approved a Special Use Permit, Series A Site Plan Review, to build a 1260 square foot addition to the existing Lourdes Primary Care and Walk-In in a C-4, Neighborhood Commercial District

## **F. STANDARDS FOR APPROVAL OF SITE PLANS**

Listed below are the *Standards for approval of site plans* found in Article IX of the Zoning Ordinance. In reviewing a Site Plan Modification application, the Planning Commission should refer to the guidelines for reviewing a Series A Site Plan application. Planning Commission is guided by the existing characteristics and conditions of the site, its surroundings, and the particular requirements of the Applicant. Elements of concern include, but are not limited to the following:

- Movement of vehicles and people
- Public safety
- Off-street parking and service
- Lot size, density, setbacks, building size, coverage and height
- Landscaping, site drainage, buffering, views or visual character
- Signs, site lighting
- Operational characteristics
- Architectural features, materials and colors
- Compatibility with general character of neighborhood
- Other considerations that may reasonably be related to health, safety, and general welfare

In addition, the general requirements for a Special Use Permit described in Section 410-40 must be complied with. The requirements for Section 410-40 are as follows:

1. That the land use or activity is designed, located, and operated so as to protect the public health, safety, and welfare.
2. That the land use or activity will encourage and promote a suitable and safe environment for the surrounding neighborhood and will not cause substantial injury to the value of other property in the neighborhood.
3. That the land use or activity will be compatible with existing adjoining development and will not adversely change the established character or appearance of the neighborhood.

4. That effective landscaping and buffering is provided as may be required by the Planning Commission. To this end, parking areas and lot areas not used for structures or access drives shall be improved with grass, shrubs, trees, and other forms of landscaping, the location and species of which shall be specified on the site plan.
5. That a site plan shall be approved in accordance with applicable provisions of Article IX of the Zoning Ordinance.
6. That adequate off-street parking and loading are provided in accordance with Article X of the Zoning Ordinance or other requirements as may be set forth in Section 806, and egress and ingress to parking and loading areas are so designed as to minimize the number of curbcuts and not unduly interfere with traffic or abutting streets.
7. That site development shall be such as to minimize erosion and shall not produce increased surface water runoff onto abutting properties.
8. That existing public streets and utilities servicing the project shall be determined to be adequate.
9. That significant existing vegetation shall be preserved to the extent practicable.
10. That adequate lighting of the site and parking areas is provided and that exterior lighting sources are designed and located so as to produce minimal glare on adjacent streets and properties.
11. That the land use or activity conforms with all applicable regulations governing the zoning district where it is to be located, and with performance standards set forth in Section 503 of the Zoning Ordinance, except as such regulations and performance standards may be modified by the Planning Commission or by the specific provisions of Section 806. Notwithstanding the above, the Planning Commission shall not be authorized to modify the land use regulations of the Zoning Ordinance.

## G. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Unlisted** Action. The Planning Commission should be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
  - a. Type I
  - b. Type II
  - c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance. The Zoning Board of Appeals is responsible for completing Part 2 & Part 3 of the Environmental Assessment Form (EAF)— see below.

**SEQR EAF Part 2 - Impact Assessment.** The Planning Commission, acting as Lead Agency, is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the ZBA. When answering the questions the Planning Commission should be guided by the concept “Have our responses been reasonable considering the scale and context of the proposed action?”

	NO, OR SMALL IMPACT MAY OCCUR	MODERATE TO LARGE IMPACT MAY OCCUR
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Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
Will the proposed action result in a change in the use or intensity of use of land?		
Will the proposed action impair the character or quality of the existing community?		
Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
Will the proposed action impact existing: A. public / private water supplies? B. public / private wastewater treatment utilities?		
Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		
Will the proposed action result in an increase in the potential for erosion, flooding or drainage Problems?		
Will the proposed action create a hazard to environmental resources or human health?		

**EAF Part 3 - Determination of significance.** For every question in Part 2 that answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- If the Planning Commission determines that the proposed action may result in one or more potentially large or significant adverse impacts an environmental impact statement is required.
- The Planning Commission may issue a Negative Declaration if it is determined that the proposed action will not result in any significant adverse environmental impacts.

## H. STAFF FINDINGS

The Planning Commission must determine if the requirements of Section 410-47 for a Series A Site Plan Review and Section 410-40 for a Special Use Permit have been met.

## **I. SUGGESTED CONDITIONS**

If the Planning Commission approves this project, staff recommends that the following condition of approval be included:

1. Prior to the issuance of a demolition permit, 198 Robinson Street (Tax ID 145.77-3-16) shall be merged into 38 Moeller Street ((Tax 145.77-3-17).
2. Prior to the submittal of a building permit, a revised site plan shall be submitted to the Planning Department for review and approval which illustrates the location of a privacy fence along the south and east property lines subject to the provisions of Zoning Code Section 410-14. The plans shall include specifications and drawings of the height and materials proposed for the privacy fence.
3. Prior to the submittal of a building permit, a revised site plan shall be submitted to the Planning Department for review and approval which identifies proposed tree species to be selected from the list of recommended large and small trees on the Shade Tree Commission page of the City website (see Trees Mean Business). The proposed tree on Robinson Street shall be a small tree from list be planted due to the location of overhead utilities lines. All other proposed trees on the site plan shall be any large tree species identified on list.
4. Prior to the submittal of a building permit, a revised site plan shall be submitted to the Planning Department for review and approval which illustrates location, height (including top and bottom elevation measurements), and building materials of all proposed retaining walls. All exposed portions of proposed retaining walls shall have an architectural finish, such as split faced block or poured in place color integrated concrete.
5. A Final Urban Runoff Reduction Plan shall be submitted with the building permit application for this project. The Final URRP shall be review and approved by the Stormwater Officer prior to the issuance of the building permit. The plan shall address the conflict on the submitted site plan that show the proposed dumpster located over the proposed drywell.
6. The property owner shall be responsible for collecting litter and debris from site and adjoining rights-of-way at least once a day.
7. Prior to the submittal of a building permit, the applicant shall submit a trash management plan for review and approval by the Planning Department. The plan shall address the conflict on the submitted site plan that show the proposed dumpster located over the proposed drywell. The plan shall include provisions for the storage of trash and recycling and a pick up schedule by a private trash management company. The building plan sets shall include specifications for the proposed dumpster enclosure that meeting the requirements of Section 410.56 of the Binghamton Zoning Code.
8. A final lighting plan shall be submitted for review and approval by the Planning Department. The lighting plan shall meet the provisions of Section 410.24J of the Binghamton Zoning Code.

## **J. ENCLOSURES**

Enclosed is a copy of the site plan, site photographs and application.